

Office of School Board Attorney
Johnny Brown, Board Attorney

SUBJECT: SETTLEMENT AGREEMENT

Andrade Gutierrez Construction, Inc. v. The School Board of Miami-Dade County, Florida, Case Nos. 99-20391 CA 04 (State School "CCC") and 99-29628 CA 05 (State School "BBB")

COMMITTEE: FACILITIES PLANNING AND CONSTRUCTION

In September and December 1999, Andrade Gutierrez Construction, Inc. (AGCI) filed complaints against the School Board with respect to the construction of Coral Reef Senior High School (State School "CCC") and Barbara Goleman Senior High School (State School "BBB") for breach of contract. AGCI alleged that the School Board delayed and interfered with AGCI's performance on the State School "CCC" project by failing to properly respond to submittals and requests for information. AGCI claimed it was entitled to additional damages of \$520,749. AGCI is also seeking damages in connection with the State School "BBB" project for alleged extended overhead and general conditions, change orders, extra work performed, acceleration, mitigation and retainage in the total amount of \$519,617. Outside counsel, on behalf of the Board, filed a counterclaim for liquidated damages and compensatory damages for inadequate, incomplete and defective work.

After a full day of court-ordered mediation on July 9, 2002, the parties were unable to reach an agreement. However, as a result of continued negotiations, a settlement agreement has been reached between the parties. This settlement agreement, which has been provided to the Board under separate cover, calls for a global settlement in which AGCI will repair defective work at Coral Reef Senior High School, estimated at a cost of approximately \$1 million dollars. In exchange for this work, the School Board will pay AGCI the remaining contract balance and retainage on State School "CCC" of \$1,050,000, and the State School "BBB" contract retainage of \$25,000 for a total of \$1,075,000.

This settlement represents a compromise by all parties for both lawsuits in an effort to amicably resolve all claims. Accordingly, the Administrative Staff, Board Attorney's Office and outside counsel recommend approval of this settlement as being in the best interest of the Board.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the Superintendent to execute the Settlement and Release Agreement in the cases of Andrade Gutierrez Construction, Inc. v. The School Board of Miami-Dade County, Florida, Case Nos. 99-20391 CA 04 (State School "CCC") and 99-29628 CA 05 (State School "BBB"), provided under separate cover.